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National Munitions Act

Washington

1935

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NATIONAL MUNITIONS ACT

HEARINGS

BEFORE THE

COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES

SEVENTY-FOURTH CONGRESS

FIRST SESSION

ON

H. R. 8788

TO CONTROL THE TRADE IN ARMS, AMMUNITION AND IMPLEMENTS OF WAR

STATEMENT BY

MR. JOSEPH C. GREEN
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Department of State

JULY 16, 17, AND 18, 1935

UNITED STATES
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NATIONAL MUNITIONS ACT

TUESDAY, JULY 16, 1935

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, D. C.

The committee met at 10 a. m., Honorable Sam D. McReynolds (chairman) presiding.

The CHAIRMAN. The committee will come to order. We have before us for consideration this morning H. R. 8788, a bill to control the trade in arms, ammunition, and implements of war.

(The bill referred to is as follows:)

[H. R. 8788, 74th Cong., 1st sess.]

A BILL To control the trade in trms, ammunition, and implements of war

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of this Act—

(a) The term "Board" means the National Munitions Control Board which is hereby established to carry out the provisions of this Act. The Board shall consist of the Secretary of State, who shall be chairman and executive officer of the Board, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, and the Secretary of Commerce. Except as otherwise provided in this Act or by other law, the administration of this Act is vested in the Department of State;

(b) The term "United States" when used in a geographical sense includes the several States and Territories, the insular possessions of the United States (including the Philippine Islands), the Canal Zone, and the District of Columbia;

(c) The term "person" includes a partnership, company, association, or corporation, as well as a natural person.

SEC. 2. The President is hereby authorized to proclaim upon recommendation of the Board from time to time a list of articles which shall be considered arms, ammunition, and implements of war for the purposes of this Act.

SEC. 3 (a) Within ninety days after the effective date of this Act or upon first engaging in business every person who engages in the business of exporting or importing any of the arms, ammunition, and implements of war referred to in section 2, whether as an exporter, importer, manufacturer, or dealer, shall register with the Secretary of State his name, or style, principal place of business, and places of business in the United States, and a list of the arms, ammunition, and implements of war, which he exports, imports, or manufactures for export.

(b) Every person required to register under the provisions of this section shall pay a registration fee of $500 and upon receipt of such fee the Secretary of State shall issue a registration certificate valid for five years, which shall be renewable for further periods of five years upon the payment for each renewal of a fee of $500.

(c) Every person required to register under this section shall notify the Secretary of State of any change in the arms, ammunition, and implements of war which he exports, imports, or manufactures for export; and upon such notification the Secretary of State shall issue to such person an amended certificate of registration, free of charge, which shall remain valid until the date of expiration of the original certificate.

(d) It shall be unlawful for any person required to register under the provisions of this section to import or export any of the arms, ammunition, or implements of war referred to in section 2 without having registered in accordance with the provisions of this section.

SEC. 4. It shall be unlawful for any person to export, or attempt to export, from the United States any of the arms, ammunition, or implements of war referred to in section 2 to any other country or to import, or attempt to import, to the United States from any other country any of the arms, ammunition, or implements of war referred to in section 2 without first having a license therefor from the Department of State for each shipment.

SEC. 5. No export or import licenses shall be issued to persons who have failed to register as provided for in section 3, nor shall licenses be issued for the export of arms, ammunition, and implements of war unless the government of the country to which such arms are to be exported has indicated to the satisfaction of the Secretary of State that permission for the importation has been accorded: *Provided, however,* That no licenses shall be issued for the export of appliances and substances exclusively intended for chemical warfare.

SEC. 6. (a) Any arms, ammunition, or implements of war which have been exported or imported or which it has been attempted to export or import in violation of the provisions of this Act shall be subject to seizure and forfeiture in accordance with the provisions of the Espionage Act of June 15, 1917 (ch. 30, title VI, 40 Stat. 217; 22 U. S. C. A., secs. 238–245).

(b) In the case of the forfeiture of any arms, ammunition, or implements of war by reason of a violation of this Act, no notice of public sale shall be required; no such arms, ammunition, or implements of war shall be sold at public sale, but they shall be delivered to the Secretary of War; and the Secretary of War may order such arms, ammunition, or implements of war destroyed or may retain them for the use of the armed forces of the United States.

SEC. 7. (a) The Secretary of State, after consulation with the Board, shall issue regulations for carrying out the provisions of this Act.

(b) The Board shall be called by the chairman and shall hold at least one meeting a year. The Secretary of the Treasury shall issue such regulations with regard to the export and import of arms, ammunition, and implements of war as he may deem necessary for carrying out the provisions of this Act.

SEC. 8. (a) No purchase of arms, ammunition, and implements of war shall be made on behalf of the United States by any officer, executive department, or independent establishment of the Government from any person who shall have failed to register under the provisions of section 3 of this Act.

(b) Any contract in violation of the provisions of this section is hereby declared to be contrary to the public policy of the United States, shall not be enforceable in any court of the United States, and shall not afford any basis for the granting of legal or equitable relief by any such court.

SEC. 9. No sale of the arms, ammunition, or implements of war referred to in section 2 shall be made on behalf of the United States by any officer, executive department, or independent establishment of the Government to any foreign government. The Act of August 29, 1916, relating to the sale of ordnance and stores to the Government of Cuba, is hereby abrogated.

SEC. 10. All persons required to register under section 3 of this Act shall maintain such permanent records of manufacture for export, importation, and exportation of arms, ammunition, and implements of war as the Board shall prescribe.

SEC. 11. Any person who violates or fails to comply with any of the requirements of this Act or any regulations under this Act shall, on conviction, be fined not more than $10,000 or be imprisoned for not more than five years, or both, in the discretion of the court.

SEC. 12. The sum of $25,000 is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to be expended by the Secretary of State for the expenses of the Board in carrying out the duties as aforesaid.

SEC. 13. The Board shall make an annual report to Congress, copies of which shall be distributed as are other reports transmitted to Congress. Such report shall contain such information and data collected by the Board as may be considered of value in the determination of questions connected with the control of trade in arms, ammunition, and implements of war. It shall include a list of all persons required to register under the provisions of section 3 and full information concerning the licenses issued under the provisions of section 4.

SEC. 14. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 15. This Act shall take effect on the ninetieth day after the date of its enactment.

SEC. 16. This Act may be cited as the "National Munitions Act."

The CHAIRMAN. Mr. Green, of the State Department, who is very familiar with this bill, is present this morning, and we will be glad to have a statement from him at this time in explanation of the bill.

STATEMENT OF JOSEPH C. GREEN, DIVISION OF WESTERN EUROPEAN AFFAIRS, DEPARTMENT OF STATE

Mr. GREEN. Mr. Chairman and gentlemen of the committee, I will speak first in regard to the purposes of this bill.

The purpose of the bill is to set up administrative machinery to enable the Government to supervise and control the manufacture of and international traffic in arms and munitions.

For several years this Government has been foremost in its attempts to accomplish this purpose by international action. But our legislation has lagged far behind that of almost all of the civilized countries. There is only one important arms-producing country in Europe which does not already have in effect legislation far more stringent than this proposed legislation.

The CHAIRMAN. What is that country?

Mr. GREEN. That is Czechoslovakia. I think the legislation of Czechoslovakia can be considered as less stringent than this proposed legislation in some respects, but in other respects it is more stringent. All the others have legislation which is more stringent than this in regard to the export of arms, and we have lagged behind. This legislation, if enacted, would not, in any way penalize our manufacturers and exporters as against those of other nations.

Mr. JOHNSON. What legislation do we now have, if any, regulating the exportation of arms and munitions?

Mr. GREEN. It would take a long time to answer that, because there are a good many items of such legislation, and they are rather complicated.

Mr. JOHNSON. Can you tell us briefly what they provide?

Mr. GREEN. We have the joint resolution of January 31, 1922. That is the principal one.

That is a joint resolution which authorizes the President, whenever he finds that the exportation of arms from this country to a country in this hemisphere, or to a country in which we exercise extraterritorial jurisdiction would promote or encourage civil strife, to place restrictions on the export of arms and munitions to such country.

Mr. JOHNSON. Is that applicable only to this hemisphere, or to what other countries?

Mr. GREEN. It is applicable also to countries in which we exercise extraterritorial jurisdiction.

The CHAIRMAN. That has been construed as applying where there is a rebellion in a particular country, and not as between two countries?

Mr. GREEN. Yes, it applies only in case of civil strife within a country and not to international conflicts.

Mr. JOHNSON. In other words, we could not stop the exportation of arms and munitions to two countries engaged in war?

Mr. GREEN. Not under that act.

The CHAIRMAN. Was it not construed as being applicable in Mexico, in case of a rebellion there? Was it not construed to give the President authority in case of a rebellion?

Mr. GREEN. Yes, sir. It was passed in its original form in 1912 to deal with the Mexican situation.

The CHAIRMAN. The President could refuse to allow the exportation of arms to the people on either side in a particular country.

Mr. GREEN. At the present time there are restrictions on exports applying to China, Cuba, Honduras, and Nicaragua. Those are the only countries to which Presidential Proclamations pursuant to the Joint Resolution are now applicable.

To those four countries no arms may be exported except on a license issued by the Secretary of State.

The CHAIRMAN. That information all came out first, as I recall, in our hearings on the arms embargo bill, or the last bill which we passed, extending that provision so that the Government could prohibit the shipment of arms to Bolivia and Paraguay.

Mr. GREEN. Yes, sir. Then there is the joint resolution of May 28, 1934. That is the joint resolution under which the President was authorized to prohibit the sale of arms to Bolivia and Paraguay. That was specifically passed to deal with that particular case, and it is now in effect.

Those are the only important laws dealing with restrictions on the export of arms; there are several others of less importance, which I will be glad to explain if the Committee desires.

Mr. TINKHAM. But the war went on for 4 years, notwithstanding that prohibition.

Mr. GREEN. Yes, sir; but it should be remembered that Congress did not pass the act under which we could prohibit the sale of arms to Bolivia and Paraguay until May 28, 1934, and the war lasted only a year after that time.

This particular legislation is drafted to conform to the Arms Traffic Convention of 1925, which the President ratified last month.

It is also drafted to conform to the international convention on the same subject now under negotiation in Geneva. Until that latter convention becomes effective it will be impossible to draft legislation to implement all of its provisions, because such legislation might not be constitutional. This legislation goes as far as it is constitutionally possible to go in the direction of the convention now under negotiation.

This bill provides for a National Munitions Control Board, to consist of the Secretary of State, the Secretary of War, the Secretary of the Treasury, the Secretary of the Navy, and the Secretary of Commerce. The administrative functions of the Board are vested in the Secretary of State.

The President is authorized to proclaim, from time to time, a list of articles which shall be considered to be arms, ammunition, and implements of war.

There have been bills introduced in Congress at various times in the past in regard to the export of arms, in which it has been attempted to provide for a list in advance of what shall be considered as arms, ammunition, and implements of war. But experience in attempting to administer the existing restrictions on the export of arms has shown that it is impossible to draw up a hard and fast list, for various reasons, two of which I might point out.

One reason is that new arms are invented so fast when war breaks out that you are bound to have to change your list. In the last war that was particularly true; new inventions were made almost overnight.

Another reason why it is impossible to set up a hard and fast list is because we have certain bilateral treaties which would require such a list to be varied slightly in respect to certain countries. Our treaty with Cuba provides that in restricting the export of arms from this country we must abide by their list of arms and muntions, which makes it obligatory upon us to use a slightly different list when we are restricting the exportation of arms to Cuba from that in use in the case of China.

So it was felt necessary to provide for the proclamation of such a list from time to time, with variations made as may be necessary.

All persons engaged in the business of the manufacturing and exporting or importing of arms, ammunition, and implements of war will be required to register with the Secretary of State, and all persons importing or exporting such articles will be required to obtain in advance a license from the Secretary of State covering each individual shipment.

Mr. JOHNSON. You say with reference to each individual shipment. That is not specific.

The CHAIRMAN. Do you mean that every time a manufacturer wants to make a shipment he has to procure a license?

Mr. GREEN. Yes sir.

The CHAIRMAN. What is the purpose of that?

Mr. GREEN. That is the chief purpose of the export license system. It would give the Government complete statistics on those exports; it would enable the executive branch to watch those exports from the political angle, and enable Congress to acquire information in regard to our export trade which is not available now, and on which Congress might base future legislation.

It is the system that is now in effect in almost every producing country in the world. No arms can be shipped from Great Britain, Spain, or France, Sweden, or from most of the other important producing countries without an export license covering each shipment.

Mr. JOHNSON. I was reading section 3. I notice that section 4 does require a specific license each time.

Mr. TINKHAM. You proposed the last time you were before this Committee a partial embargo on arms. You asked that we should impose an embargo on arms shipment against one belligerent. I fought against that unsuccessfully in the House, but carried the fight to the Senate, and we were successful there.

So it seems to me you have the same problem here at the start. You have provided for the right to allow one country to receive these export licenses, but not another. Why should not this bill be amended to conform with the attitude of the Senate, when they refused to allow the President to do anything that was unneutral, and provide that in case of war there shall be an embargo against all belligerents receiving arms, under a license system.

Mr. GREEN. Mr. Chairman, if I may answer that question, there is absolutely nothing in this bill which gives the President any power whatever to refuse a license to anyone, except as he may refuse such a license under legislation now in effect, and there is no such legislation now in effect, with the exception of the joint resolution of January 31, 1922, referring to conditions of civil strife in this hemisphere or in countries in which we exercise extraterritorial jurisdiction and the joint resolution of May 28, 1934, referring specifically to Bolivia and Paraguay.

There is no legislation now in effect which would enable the President to refuse a license to any shipper to make a shipment to any country, unless a Presidential proclamation had been issued pursuant to one of those joint resolutions.

Mr. TINKHAM. As far as I can see, I am thoroughly in sympathy with it, and want to keep our country out of war. Therefore, why should there not be a section in this bill which says that the President shall have no right to license the exportation of arms to any belligerent?

Mr. GREEN. The reason, sir, is this: This is a bill which sets up administrative machinery. No policies are dealt with in this bill. The wisdom of such a bill I would prefer not to discuss now. If Congress wishes to pass such a bill in the future, it ought to be a separate bill.

Mr. JOHNSON. This bill is merely for the purpose of giving the Government information as to who are the shippers of munitions and what they are shipping, how much they are shipping, and to whom they are shipping. It is legislation providing for a sort of census.

Mr. GREEN. Yes, sir.

The CHAIRMAN. It seems to me to be merely the basis of getting information which might be very profitably used by us in preparing proper prohibitory legislation later, prohibiting shipments to all belligerents.

Mr. KLOEB. You say there is no legislation which permits the President to refuse a permit. What do you say as to the Johnson-McReynolds Act prohibiting the extension of credit loans?

Mr. GREEN. That is an entirely different matter.

Mr. KLOEB. But if the President was confronted with a situation where a munitions concern desired a license to make a shipment to one of the countries now indebted to us and in default, would he have the right, under your bill, to take that into consideration, where it is proposed that credit be extended, or that a loan be functioned to pay for the shipment?

Mr. GREEN. Off-hand, my answer to that would be, no. I think a man who had violated the Johnson-McReynolds Act would be punished under the provisions of that act, and not indirectly by administrative action under this act.

This bill was drawn with no provision in it which was considered controversial. The particular provision that Mr. Tinkham was speaking about was evidently omitted, so that there would be no controversial points involved in the provisions of this act. Should an attempt be made to tie up this license system with the act to which you refer, then there would be a controversial point to consider. An attempt has been made to draw a bill which sets up administrative control only, and does not deal with matters of policy.

Mr. JOHNSON. Inasmuch as you have given some thought to the matter, I would like to get your viewpoint with reference to the advantage that this information would be to our Government in securing a list of shippers and the names of the consignees required for every shipment before a permit is issued. That is what the bill does, in effect.

Mr. GREEN. That is one of the most important things that the bill does.

Mr. JOHNSON. Would that be valuable as a basis for future legislation, or is it desirable, even without other legislation?

Mr. GREEN. I think there are two answers to that question.

In the first place, it would give the executive branch of the Government information as to all shipments, and as to where the shipments are going. More and more, every single shipment of arms from the United States is of a political character. It is not commerce, pure and simple; it is commerce, with a very definite political character.

Under the law, there is no way in which we can obtain information in regard to such shipments. We do not know how much is going, and we do not know where it is going. It is extremely important that the President and the Secretary of State have all that information at hand because of the important international political aspects of the arms traffic.

In the second place, Congress has no definite, specific information at hand on which to base such legislation as Mr. Tinkham referred to.

The information which would be gathered by this board, which would be sent annually to Congress in the form of a report to Congress, and which would be published, would give to Congress and to committees of Congress information that would be very useful, when it came to drafting any legislation restricting the exportation of arms. I think that is one of the most important things this bill does.

Mr. JOHNSON. Probably this is needed as a basis of legislation.

Mr. GREEN. I might point out also that without such legislation this Government would be without the means to meet its international obligations under the Arms Traffic Convention of 1925. The Arms Traffic Convention of 1925 was ratified by the President last month.

The CHAIRMAN. When was it ratified by the Senate?

Mr. GREEN. The Senate gave its advice and consent to it and the President ratified it last month.

Mr. JOHNSON. Tell us briefly what that is.

Mr. GREEN. That is a convention which obligates us to set up a system of export and import licenses which this bill would provide for. We would be obligated under that convention to do the things that this bill provides.

Mr. JOHNSON. Who are the parties to that convention?

Mr. GREEN. It has now been ratified by fourteen powers. I can read you the list if you desire to have it.

Mr. JOHNSON. Yes; I would like to have that.

Mr. GREEN. They are the British Empire, Australia, China, Denmark, France, Latvia, The Netherlands, Poland, Spain, Sweden, and Venezuela; and then four powers have ratified but have not yet completed their ratifications by depositing them with the French Government. Those are Bulgaria, Iraq, Canada, and the United States.

Mr. JOHNSON. Italy is not included?

Mr. GREEN. No, sir.

Mr. JOHNSON. And Ethiopia is not in the list?

Mr. GREEN. No, sir.

Not only would we be unable to carry out our international obligations when this convention becomes effective unless we have some such legislation, but we would be entirely unable to carry out our obligations under the new treaty that is now under negotiation in Geneva.

I think that there is one other very important feature of this bill, resulting from its publicity provisions. It would put an end to the secrecy which now enshrouds our arms traffic.

Mr. JOHNSON. It will provide for taking off the mask and laying the cards on the table, face up?

Mr. GREEN. Absolutely. It would put an end to all of the false rumors that are current in reference to shipments that are being made.

Mr. JOHNSON. Sometimes those reports are exagerated and false.

Mr. GREEN. Exceedingly so.

Mr. JOHNSON. Oftentimes these shipments are made clandestinely?

Mr. GREEN. Yes. Take a current example. There has been frequent reference in the press recently to supposed large shipments from the United States to Italy and Ethiopia. I am entirely unable to ascertain exactly what is being shipped to those countries.

Mr. JOHNSON. There is no way for a list of those things to be secured?

Mr. GREEN. I have been unable to secure it, and I do not believe anyone can.

Mr. TINKHAM. I would like to call your attention to section 5 of this bill, which provides:

> No export or import licenses shall be issued to persons who have failed to register as provided for in section 3, nor shall licenses be issued for the export of arms, ammunition, and implements of war unless the government of the country to which such arms are to be exported has indicated to the satisfaction of the Secretary of State that permission for the importation has been accorded.

You might well have one government claiming that they were the government and another government that they were the government, and a notification would be extremely embarrassing to the United States, to one side or the other, so far as our position and the positions of other countries are concerned.

Mr. JOHNSON. It seems to me the gentlemen misinterprets the language of that section of the bill, and I will read it. It says:

> No export or import licenses shall be issued to persons who have failed to register as provided for in section 3, nor shall licenses be issued for the export of arms, ammunition, and implements of war unless the government of the country to which such arms are to be exported has indicated to the satisfaction of the Secretary of State that permission for the importation has been accorded.

They have to register before they can get a license.

In other words, I think that provision is necessary because we would not want to be placed in the attitude of shipping arms into a country if the government objected to their shipment.

Mr. TINKHAM. How are you going to know which is the government?

Mr. GREEN. The government which has been recognized by this Government.

The second point which ought to be brought out in that connection is that we are obligated to do that by the Arms Traffic Convention of 1925, which we have ratified. That is one of the provisions of the bill which is based directly on the Arms Traffic Convention, which provides that no shipment shall be made from one country destined to another country unless the latter country indicates that the arms will be admitted. That is a provision designed to attempt to stop smuggling.

The CHAIRMAN. Is that a long treaty?

Mr. GREEN. It is quite a long treaty; it would take some time to read it.

The CHAIRMAN. Where was the convention held, which prepared the treaty we have just ratified?

Mr. GREEN. That convention was negotiated in Geneva in 1925 and it was submitted by the President to the Senate on January 11, 1926. It remained in the Senate until last month, when the Senate gave its advice and consent, and the President ratified it.

Mr. TINKHAM. Mr. Chairman, I want to say I hope this committee will not report out this bill today.

The CHAIRMAN. We certainly will not, because I want to have a full hearing, and I want all you gentlemen to be here. I think we can get together on this bill.

Mr. TINKHAM. I feel very strongly, Mr. Chairman, that we ought to put in a section which will provide that there be no exportation of arms to any belligerent country. I believe the sentiment of Congress and the sentiment of the country will support such a provision.

The CHAIRMAN. All of us are vitally interested in this matter and I think we can work this out satisfactorily and be of great service to the country.

Mr. GRAY. Mr. Chairman, has the gentleman who is the witness described the precise application of this legislation to the situation that now confronts us in connection with Ethiopia and Italy?

The CHAIRMAN. No, sir.

Mr. GREEN. I can do that in a very few minutes, if you wish.

Mr. GRAY. That is a concrete proposition, and we can appreciate that, it seems to me, better than an abstract proposition.

The CHAIRMAN. I think we ought to have a very full hearing on this matter, with all of the members of the committee present, especially those who have not been able to be here this morning.

So we will ask Mr. Green to return tomorrow, and adjourn until 10:30 o'clock tomorrow morning.

(Thereupon, the committee adjourned to meet tomorrow, Wednesday, July 17, 1935, at 10:30 a. m.)

NATIONAL MUNITIONS ACT

WEDNESDAY, JULY 17, 1935

House of Representatives,
Committee on Foreign Affairs,
Washington, D. C.

The committee met at 10:30 a. m., Hon. Bryant T. Castellow presiding.

Mr. Castellow. The committee will please come to order. Judge McReynolds asked that we proceed with the hearing in his absence, and said he would be present in a short time.

Mr. Green, will you resume your statement which you commenced yesterday?

STATEMENT OF JOSEPH C. GREEN, DIVISION OF WESTERN EUROPEAN AFFAIRS, DEPARTMENT OF STATE—Continued

Mr. Gray. Mr. Chairman, I made an inquiry of the witness just before we adjourned yesterday and asked him, if it is proper to do so, to make a statement as to the practical effect and operation of this bill under the present circumstances that we are confronted with—that is, in connection with the war situation between Italy and Ethiopia.

If it is proper that such a statement should go into the record, I will be very glad to hear what you have to say about that.

Mr. Green. I do not think there would be any impropriety in replying to that question.

This bill sets up administrative machinery. It does not set up any policy in regard to the export of arms.

Mr. Gray. I am asking the question because it seems to me if the committee has a concrete proposition before it, that can be better explained and would be of no interest than the discussion of an abstract situation.

Mr. Green. I think the answer is this, that this bill sets up administrative machinery which would enable this Government to carry out any policy which Congress might determine upon in respect to the shipment of arms to those countries. As it stands, it does not in any way affect shipments to those countries, except that it would enable us, would enable the executive branch, the Congress, and the public to know what shipments of arms were going to those countries, a thing which we cannot determine at the present time.

The result of our inability to ascertain what shipments are being made from the United States in connection with this particular controversy of which you speak has been that there have been a great many stories in the newspapers which give the impression that large

shipments are going from the United States to both parties to that controversy. We have no statistical information, and we cannot state absolutely what shipments are going, who they are going from, what kind of shipments they are, and how much, if any, is being sent. But if we had this bill in effect we would get that information.

Mr. GRAY. If this bill were enacted into law, what advantages would it give us that we do not have under the present situation?

Mr. GREEN. We would have two advantages. We would first have the advantage of knowing the facts, of knowing what shipments, if any, were going.

In the second place, we would have the advantage of having prepared and in operation the administrative machinery to enforce any restrictions on the export of arms which Congress might in the future determine upon.

Mr. GRAY. It would also charge us with actual knowledge of what was going on if this bill were enacted into law, would it not? We would be chargeable with actual knowledge of all the facts?

Mr. GREEN. Yes; and we certainly do not have that now.

Mr. TINKHAM. The last time you came before this committee you came with a piece of legislation for policy purposes. I think I demonstrated that the policy was to give the President of the United States the right to put on an arms embargo against one nation. Of course, that would give the right, in effect, to the President to declare war by putting on an embargo against one country.

In other words, you came before this committee with a piece of policy legislation.

That went to the Senate, and there they took the view that I took, and that some others took, that if there was going to be any such policy as that adopted there should be an embargo against the export of arms and munitions to any belligerent countries.

I want to know, if you can tell me, why the administration abandoned that principle in the Senate, namely, the establishment of an embargo against all countries that are belligerent countries.

Mr. GRAY. Mr. Chairman——

Mr. TINKHAM. Wait a minute.

Mr. FISH. Let the witness answer the question.

Mr. GRAY. I had not concluded my interrogation of the witness.

Mr. FISH. Who has the floor?

Mr. GRAY. I was interrogating the witness, and I wanted to ask him another question or two along the same line on which I was trying to interrogate him.

Mr. TINKHAM. Let him go ahead.

The CHAIRMAN. I was under the impression that Mr. Gray had concluded his questions.

Mr. TINKHAM. I was under the same impression.

Mr. GRAY. I do not want to develop anything that it is improper to have go into the record. If there is anything developed that is improper, I would like to have it withdrawn from the record.

What I was trying to get at was this:

In connection with the proposition before us and the bill we have for consideration, I wanted to know how we can proceed under this bill, and what would be the effect of this legislation, if enacted.

Mr. GREEN. Well, sir, I think, to sum it up, it would have those two effects of which I spoke. First of all, it would give us machinery by which we could determine what exports of arms were actually going to each of the two parties to the controversy to which reference has been made. In the second place, it would give us the machinery by which we could regulate or restrict, or put an entire stop to those shipments of arms, if Congress should determine that that was the policy which ought to be adopted.

Mr. GRAY. What special advantages would that give us, as we face the proposition we have before us today regarding these two nations that have been referred to?

Mr. GREEN. Answering your question——

Mr. CHRISTIANSON. Would it not give us this advantage, that the Government would know what exports of arms were going from this country, and be of assistance in guiding this Government in its policy with reference thereto?

Mr. GREEN. Yes, sir.

Mr. TINKHAM. I want to proceed along these lines. I think there is an excellent opportunity in this bill to forbid the export of munitions to any belligerent countries, impartially, which would have the effect of establishing a policy of neutrality on the part of this country.

I believe the United States should not make any political commitments in Europe, or give the administration any authority to make political commitments.

The gentleman who is now before the committee as a witness came before the committee the last time we had this matter under consideration and wanted us to grant them the right to place an embargo against one country, prohibiting the export of arms to that country, allowing the President to select the country; and we fought that out on the ground that that would be an unneutral act and give to the President the right, really, to declare war, because under international law an embargo against one country of two belligerent countries would allow the country against which the embargo was levied to declare war against us.

So I am asking the gentleman who is the witness why he would oppose, in this particular piece of legislation, to which it would be germane, an amendment which provided that no license should be issued to any American organization or person to export arms to any of the countries that were belligerent at the time of the application for a license.

Mr. GREEN. Mr. Chairman, in answer to that question—I do not feel that such an amendment as is suggested by Mr. Tinkham would be germane to this bill. Such an amendment should be, I think, introduced as a separate bill, if it is to be proposed.

This bill is not a policy bill. This bill simply sets up administrative machinery, and it sets up administrative machinery for three purposes. The first purpose is to enable us to carry out our international obligations under the treaty which we ratified last month. Without this bill we would not be in a position to carry out our international obligations in respect to the exporting of arms. The second purpose is to provide the executive branch of the Government, Congress and the public, with full information in regard to the export of arms, with a view to giving us a basis for deciding upon

future policy, and with a view to putting an end to the great number of false rumors in regard to the arms export trade, which find wide circulation. In the third place, this machinery would enable us to carry out the restrictions on the export of arms which are already in effect and any future restrictions of the nature of those which have been suggested which Congress might wish to put into effect at a later date.

To revert to restrictions now in effect, among those restrictions is the prohibition of the sale of arms and implements of war to Bolivia and Paraguay. Those restrictions were proclaimed by the President on May 28, 1934.

Mr. CALDWELL. Pursuant to what authority?

Mr. GREEN. Pursuant to a joint resolution of Congress of the same date. The administration of those restrictions is in the hands of the Department of State. But we have found, in the absence of such machinery as is provided for under this bill, that we are totally unable to carry out the restrictions, and there have been flagrant violations of the law.

Mr. CALDWELL. Is there not now a provision of law which requires the keeping of the records of exports?

Mr. GREEN. Yes, sir; but there are various loopholes in that law, which would be a rather long and technical matter to explain.

Mr. CALDWELL. I think perhaps it might be well for the record to show the imperfections in the present law, which you hope to cure by the enactment of this bill. I think it would be well to put that information in the record at some appropriate time and place; I do not think it is necessary to do it now.

Mr. GREEN. There are arms manufacturers in the United States who have flagrantly violated the prohibition on the sale of arms to Bolivia. They have shipped, and probably are shipping today, arms and munitions to Bolivia. We are powerless to stop it, with our existing machinery. We have turned cases over to the Attorney General. They are under investigation, and I hope there may be prosecutions of some of the offenders. But the Attorney General finds it extremely difficult to prosecute such offenders under the circumstances. With this machinery set up, the thing would be almost automatic. A man who shipped arms without a license would immediately be prosecuted for that particular offense. He could receive a prison sentence or a large fine.

Mr. TINKHAM. Mr. Green says he does not think it is germane to this bill to attach to it an amendment providing that a license should not be given to an arms manufacturer to ship arms and munitions to any belligerent country. I do not see how he can say that. I do not see how, as a matter of logic, or even as a matter of parliamentary procedure, that that can be so.

This bill attempts to limit and regulate the issuance of licenses for the export of arms. If it is not germane to put in the bill a section providing that there shall not be a license given by the Government to ship arms to any belligerent country, it seems to me there is nothing in germaneness that can be closer to it than that.

He approaches the question from the standpoint of policy.

This is a bill in relation to the issuance of licenses by the United States Government, and if it relates to the issuance of licenses it

seems to me it is perfectly germane to put in the bill a section providing that there shall not be a license issued for the shipment of arms to the belligerent. It seems to me that is not only germane, but is really a part of the bill.

Mr. Green has not explained why he came before this committee a year ago and asked for an arms embargo against one country, the President to exercise his authority or discretion, and is opposed at this time or any other time to issuing an embargo against the shipment of arms or the sale of arms by anyone in this country to all belligerents.

And let me say, before I conclude this statement, that I have always opposed our mingling in the political affairs of Europe. We all know that in the last war the reason we got into the war was largely on account of the sale of munitions, and that men in this country became so committed in such a large way that they were all for our intervention, when it seemed that Germany was going to whip the Allies. So, to save the money that was owed them, they insisted on our country going into the war.

So I think at this time, and on this bill, it is perfectly germane to offer such an amendment that I have referred to, and I shall insist upon it and offer it on the floor, if it is rejected in the committee, and we do not put in a clause that provides that arms shall not be shipped to any country that is a belligerent. In my opinion, the committee will make a mistake if it does not accept that amendment, and I believe that the country is in favor of such a piece of legislation, and would be favorable to that policy, and I believe the House would be, too.

I cannot understand why the gentleman who came here a year ago—and I want him to tell us why—and proposed that we issue an embargo against one country, at the will and option of the President, is now opposed, or his department is against a provision prohibiting the sale and exportation of arms into all countries that are belligerent.

Mr. BLOOM. May I ask, have you the amendment written out?

Mr. TINKHAM. Yes; I have it here and will be very glad to read it.

Mr. BLOOM. I ask that the amendment be read.

Mr. TINKHAM. The amendment provides that on page 4, line 10, after the words "chemical warfare", this proviso be added:

> *Provided further*, That no export or import licenses shall be issued for the export or import of arms, ammunition, and implements of war, to any belligerent country in any war to which the United States is not a party.

I believe this is the opportunity to put that into law, and if that amendment is not accepted by the committee, I shall offer it on the floor.

Mr. BLOOM. Is that all of your amendment?

Mr. TINKHAM. That is all.

Mr. CHRISTIANSON. As I recall, the bill to which you have referred was pending last year and became a law as amended in the Senate?

Mr. TINKHAM. No; it was defeated, as I recall, on the same ground against which we fought it in the committee and in the House, namely, that one country only should not have an embargo against it, because that is an unneutral act.

Mr. CHRISTIANSON. The amendment was offered in the Senate and not accepted?

Mr. TINKHAM. The amendment, as I read it and submitted it to the witness, was adopted by the committee in the Senate, and as I recall, the committee in the Senate did not report the bill.

Mr. CHRISTIANSON. And the effect of your amendment would be the same as the enactment of the bill submitted 2 years ago, except that it makes an embargo obligatory instead of discretionary with the President?

Mr. TINKHAM. Yes; it makes it against all countries, which is the important thing, and not against one, as was proposed by the gentleman who is now the witness before the committee.

Mr. CASTELLOW. It is suggested by Mr. Green that the gentlemen may be laboring under some misapprehension in regard to the history of the legislation concerning which you are talking, and that he might be able to give you some additional information in regard to it.

Mr. TINKHAM. I will be very glad to hear it.

Mr. GREEN. It is my very definite recollection that that bill was passed by the House in the form in which it was originally introduced.

Mr. TINKHAM. Yes; that is true.

Mr. GREEN. And that it was then amended in the Committee on Foreign Relations of the Senate by the addition of a proviso, that it was then reported to the Senate with that proviso, and passed, and that the House and the Senate then being in disagreement in regard to the proviso, the bill died at the end of the session of Congress.

Mr. TINKHAM. I stand corrected; that is correct. I did not understand that the Senate had passed it.

Mr. GREEN. That is the fact.

Mr. TINKHAM. At any rate, it is not in effect.

Mr. FISH. If the Senate had passed it it would have gone back to the House and to the committee of conference of which I was a member, which it did not do. Therefore, it could not have passed the Senate, and as I understand it, it was recalled.

Mr. GREEN. It was passed by the Senate on February 28, 1934, with the proviso in it, and it was then returned to the House, and lay on the Speaker's desk until the end of the session, and was never taken up in the House.

Mr. FISH. Then it came back without the proviso that we objected to, that Mr. Tinkham objected to and that I objected to.

Mr. TINKHAM. At any rate, the legislation did not pass.

Mr. FISH. The amendment that we objected to that was put on in the House was stricken out in the Senate, and the chairman of the committee knows all about it, and that is why he did not call it up, because they did not want it without the provision that was passed in the House, and it lay on the Speaker's desk for 3 months.

Mr. CASTELLOW. It seems that House Joint Resolution 93 passed the House April 17, 1933, was attested by the Clerk of the House and attested by the Secretary of the Senate and passed the Senate with an amendment, on February 28, 1934.

That amendment reads as follows:

Provided, however, That any prohibition of export, or of sale for export, proclaimed under this resolution shall apply impartially to all the parties to the dispute or conflict to which it refers.

Mr. TINKHAM. That was the amendment I offered in the House.

Mr. CHRISTIANSON. The amendment was rejected by the House?

Mr. TINKHAM. The amendment was rejected by the House, and apparently accepted in the Senate, and then the bill died between the two houses.

Mr. FISH. It seems to me strange that the gentleman representing the State Department should give us such misinformation.

Mr. GREEN. I resent that remark. I did not give you any misinformation. I gave it exactly as the chairman has just read it. That bill was passed by the Senate on February 28, 1934, with the proviso in it, and the bill was then returned to the House and remained on the Speaker's desk for the rest of the session and died.

Mr. FISH. I did not understand that to be the case. I understood that the bill had come back to the House as it went through.

Mr. CHRISTIANSON. It might be interesting to know whether the administration was responsible for the failure to report the bill.

The CHAIRMAN. Which bill was that?

Mr. TINKHAM. That was the original bill that was passed last year.

The CHAIRMAN. What has that got to do with this proposition before us? That bill is dead, and I killed it.

Mr. TINKHAM. May I ask why you killed it?

The CHAIRMAN. Because I did not think it was proper to bring it up for further dispute, and the Senate had not agreed.

I left it on the Speaker's desk and let it die there.

Mr. TINKHAM. In other words, we passed the bill and the Senate amended it in accordance with the resolution I offered here.

The CHAIRMAN. Yes.

Mr. TINKHAM. And then you killed it because of the amendment adopted in the Senate?

The CHAIRMAN. Yes; which was against the policy adopted by this Committee.

Mr. BLOOM. Mr. Chairman, I make a point of order.

The CHAIRMAN. The committee was absolutely the other way, and I saw no reason to go on with that contest. Mr. Fish knew about it.

Mr. FISH. I knew about it.

The CHAIRMAN. That has nothing to do with this case at all.

Mr. GRAY. We would like to hear the witness on these propositions, Mr. Chairman We can fight these other questions out after the witness has gone. This bill is before the committee for a hearing, and the witness is also before the committee.

The CHAIRMAN. You can answer Mr. Tinkham's question.

Mr. GREEN. The last questtion, as I understood it, was why at this time we do not feel that such an amendment as has been offered should be added to this bill.

I think the answer to that question is this. In speaking of that amendment, reference was made to this bill as a bill, the purpose of which was to limit exports, and it was therefore suggested that

it would be germane to this bill to add an amendment which would definitely limit exports in particular cases

As I understand it, this bill is not a bill to limit exports. There is no provision in the bill limiting exports. This bill simply allows us to carry out our international obligations, under a treaty, which we cannot carry out without this bill, and sets up the administrative machinery to enable us to put into execution the restrictions on exports which are now in effect, or which may be put into effect in the future. There is nothing in the bill limiting exports, and personally, I cannot see how the amendment can be germane; I cannot see how it could be germane to the bill to add an amendment to that effect.

Mr. TINKHAM: This bill deals with export licenses, and therefor any condition imposed by an amendment, which relates to export licenses, seems to me is germane to the bill.

Mr. BLOOM. May I state my point of order, Mr. Chairman. The amendment has not been offered before the committee. We have nothing with reference to this amendment at all, and until the amendment is offered, we cannot determine as to its germaneness.

Mr. TINKHAM. It can be discussed.

Mr. BLOOM. Not until it is before the committee.

Mr. TINKHAM. Then I offer it.

The CHAIRMAN. The question as to the germaneness of the amendment is a matter that the committee should consider in executive session.

But if you want to have the opinion of the witness as to whether or not it should be made a part of the bill, whether we are justified in making it a part of the bill, and whether Mr. Green has any reasons to state as to why it should not be put in the bill, you can do that. That is what we would like to have discussed.

Mr. BLOOM. He has explained all that.

The CHAIRMAN. The question of its germaneness will, of course, be discussed by the committee in executive session, when we will have an opportunity to go over that very thoroughly.

Mr. CHRISTIANSON. It seems to me that when the witness objects to it on the ground of germaneness, he is evading the question which Mr. Tinkham wants to propound to him.

The CHAIRMAN. If you have any other reasons why it should not be included in the bill, the committee will be glad to hear you on that.

Mr. GREEN. I have no intention of attempting to evade any question which may be asked. I thought that I had answered the question fully. I would appreciate it if the question could be restated and I be given another opportunity to answer it.

Mr. TINKHAM. I think that is proper, since I have offered the amendment.

The CHAIRMAN. In other words, you are offering it for information.

Mr. TINKHAM. I want to ask Mr. Green what the objection is, in a bill which deals with the licensing of exportation of arms and munitions—entirely aside from the question of germaneness, which will have to be determined finally by the Speaker—why we should not provide that in the case of belligerent countries there should be

no export of arms or ammunition, and prohibit that impartially to any country.

The CHAIRMAN. In order to get your question more completely, are you going to read the amendment?

Mr. BLOOM. It has been read; it has not been offered.

The CHAIRMAN. He has a right to have your opinion.

You can state what your views are in regard to that matter, Mr. Green.

Mr. GREEN. My views are these—that the introduction of such an amendment would constitute the injection of an extraneous and highly controversial element into a bill which is designed to set up administrative machinery. The amendment is distinctly a matter concerning high policy, and this bill is not a bill that deals with the policy of this Government in regard to exports of arms.

It is my feeling that any bills—and there are a great many pending now—dealing with the policy of this Government in respect to exports of arms should be introduced separately and discussed separately on their merits and not be confused with a bill designed to set up administrative machinery under a treaty.

Mr. CALDWELL. I gather that it is your thought that this bill will set up permanent machinery for the ascertainment of certain data; and that a matter of policy ought not to be injected here, in the discussion of this bill, because the policy may be changed from time to time as the years go on, and there is no need of involving the two things in the same bill.

Mr. GREEN. Yes, sir; that is correct.

Mr. TINKHAM. You have not answered my question yet. I said, leaving entirely aside the question of relevancy or germaneness, what objection is there on your part, or on the part of your Department, to saying in permanent law that in case of belligerency all belligerent countries should be prevented from getting arms and munitions from the United States.

Mr. GREEN. Mr. Chairman, do you wish me to answer that question? It seems to me——

The CHAIRMAN. I do not think he said anything about the question of germaneness. The answer was that this was a question of administration, and he objected to any provision in reference to policy going in the same bill, because he did not think controversial questions of that kind should be included in the same bill. That, of course, is merely his opinion, and he is entitled to his opinion.

Mr. TINKHAM. I want to ask what his objection is, or the objection of the State Department, to a provision to the effect that no belligerent country shall receive arms or ammunition from the United States.

Mr. KEE. Mr. Chairman, I think that is subject to a point of order.

The CHAIRMAN. I will sustain the point of order, because I feel that that is not the question right now. The question of whether or not he has any objections to that amendment is not the question here. He said he does not wish to go into the question of policy, because he thinks that should be included in another bill.

Mr. TINKHAM. He has not said he objected to the policy.

The CHAIRMAN. He said he did not want to go into the question of policy. I think he has fully answered Mr. Tinkham.

Are you through with your explanation, Mr. Green?

Mr. GREEN. There are two other points that may be of some interest in connection with this bill.

The first one is: Why the urgency of this matter?

We feel very strongly that this bill should be enacted, if possible, during the present session—that it is an urgent bill. The President has so expressed himself. As the result of the present international situation, exports of arms from the United States are rapidly increasing in quantity. As far as the very defective statistics which are now available give us the information, we can trace the rapid increase in exports. Not only are exports increasing in quantity, but the international traffic in arms is rapidly assuming greater political importance, in view of the international situation, and we do not feel that this Government should be left entirely without any effective means of supervising in any way the international traffic in arms or of gaining access to accurate statistics on the international traffic in arms. We think it is necessary to have that information as soon as possible.

Mr. TINKHAM. Have you any facts that support your statement as to the export of arms to an excessive amount?

Mr. GREEN. I did not use that term, because I have no standard by which to judge what is excessive and what is not excessive. I merely said that the exports have been increasing and are increasing.

Mr. TINKHAM. Have you any statistics?

Mr. GREEN. I have not any figures here. I could produce them; it would take some time to tabulate them. They are very defective statistics, extremely defective statistics, but they do definitely indicate an increase.

Mr. LAMBETH. Could you tell the committee to what countries this increased exportation is taking place?

Mr. GREEN. It is taking place to a great many countries. There has been an increase in exports to China; there has been an increase in exports to almost every Latin-American country, with the exception of Bolivia and Paraguay, to which the sale of arms is prohibited—a prohibition that is being flagrantly violated by some of our arms manufacturers and exporters.

Mr. TINKHAM. As long as the State Department has no information of an exact character on this subject, I would like to read you this dispatch, which appeared in the New York Times of July 14. It is dated London, July 13, and it says:

> British armament manufacturers are enriching themselves already out of the Italo-Ethiopian crisis, it was indicated by official Board of Trade figures issued tonight.
>
> Despite the sudden suspension of arms shipments to Ethiopia, the exports of arms from Britian last month amounted to £365,000, or nine times as much as in the preceding June. Exports of military and naval stores also showed a spectacular increase, amounting to £74,655, compared to £4,150 a year ago.
>
> In the past 6 months the total shipments of arms from Britain—not including ammunition—were 50 percent greater than in the corresponding period last year, while exports of military and naval stores jumped 150 percent. It is taken for granted the orders came chiefly from Italy.

It seems to me the State Department ought not to come up here with a bill of this sort without some exact information, which it does not seem to have.

The CHAIRMAN. They may be in a different situation. Let Mr. Green answer the question.

Mr. GREEN. We have information that is exact, Mr. Chairman, as to the exports from Great Britain. I have seen the particular article which has been read. But we have no exact information as to the exports from the United States, because no legislation, such as this bill would put into effect, is in effect.

The CHAIRMAN. Has Great Britain that sort of legislation in effect?

Mr. GREEN. In Great Britain no implements of war can be exported without a license; those licenses are tabulated and we can find exactly what is being exported from Great Britain, from whom it is going, and where it is going. The same thing is true in regard to the exports from all the other arms-producing countries, with two exceptions.

The CHAIRMAN. If we had such a law as this in effect in the United States, you could give Mr. Tinkham the exact figures?

Mr. GREEN. Yes, sir; exactly.

Mr. CALDWELL. Is it true, so far as Great Britain is concerned, that no exports can be made without a license for each particular shipment?

Mr. GREEN. Yes; and a similar law is in effect in practically every producing country in the world.

Mr. CALDWELL. Does this bill before us provide for that feature?

Mr. GREEN. Exactly.

Mr. CALDWELL. That is, no shipment can be made under this bill except under a license issued to the shipper for each particular shipment from that particular consignor?

Mr. GREEN. Exactly. It is my idea that those licenses would be tabulated and sent to Congress annually in a report which would show how much had been shipped, who the shippers were, and to whom the shipments were made—information which is absolutely unavailable at the present time in the United States.

Mr. KEE. Is not the main purpose of this bill to set up machinery through which the Government can get the absolutely exact facts with reference to the quantity of arms and munitions being shipped from this country?

Mr. GREEN. You ask whether that is the main purpose. It is hard to distinguish. There seem to me to be three main purposes. That is one of them.

Another main purpose is to enable the Government to enforce the restrictions already in effect and any other restrictions which Congress may enact.

The third main purpose is in connection with a treaty which we have ratified which obligates us to adopt this procedure. Unless this bill is enacted we may be in default in our international obligations under that treaty.

Mr. BLOOM. Under the law, Mr. Green, if you had a treaty covering these things, would not the treaty itself provide the way for getting the data you want?

Mr. GREEN. No, sir.

Mr. BLOOM. Why not?

Mr. GREEN. In our constitutional practice it is necessary for Congress to enact a law implementing the treaty; otherwise we cannot

carry the treaty out. The treaty itself is not self-executing. It does not execute itself; it must be executed by a law, which is called an implementing law.

Mr. CHRISTIANSON. In other words, a treaty would bind the two nations involved, but would not bind the individual manufacturers in this country?

Mr. GREEN. No, there would be no penalty provided for a violation of the treaty and our collectors of customs could not enforce the provisions of the treaty unless such a law as this were enacted.

Mr. CALDWELL. Under section 2 of this bill the President is "authorized to proclaim upon recommendation of the Board from time to time a list of articles which shall be considered arms, ammunition, and implements of war for the purposes of this act."

Then, under section 3, it is provided that—

within ninety days after the effective date of this Act or upon first engaging in business every person who engages in the business of exporting or importing any of the arms, ammunition, and implements of war referred to in section 2, whether as a exporter, importer, manufacturer, or dealer, shall register with the Secretary of State his name, or style, principal place of business, and places of business in the United States, and a list of the arms, ammunition, and implements of war, which he exports, imports, or manufactures for export.

It is a matter of detail only, but I am wondering if it ought not to be made clear that there has to be a list of articles declared to be arms, ammunition, and implements of war, before the manufacturer or exporter or importer is required to submit a list of such articles.

Mr. GREEN. They would have a list.

Mr. BLOOM. In other words, you want a definition of munitions of war?

Mr. CALDWELL. I think a definition ought to be made available before the manufacturer is required to submit his list.

Mr. GREEN. It certainly would be, because the President is authorized to proclaim it. And it is to be assumed that the President would, in order to enforce the law, proclaim such a list.

Mr. CALDWELL. Would it not be better to say that certain things shall be included, and have a definition published in the proclamation of the President?

Mr. GREEN. I do not think that is necessary; I do not see any possible harm in it.

Mr. BLOOM. What definition would you take, the definition of the League of Nations?

Mr. GREEN. That is very difficult to answer.

Mr. CALDWELL. You would not rely on a definition, but on a definite list of articles?

Mr. GREEN. We would rely on a definite list of articles, which the President must proclaim, under the provisions of section 2. The President having proclaimed that list the manufacturer or exporter would be required to register which of the items he dealt in.

Mr. CALDWELL. The manufacturer is required to register his list within 90 days after the passage of the act, and it is quite possible that upon the passage of the act the President will not proclaim the list immediately, is it not?

Mr. GREEN. I do not think so. We are so anxious, and the President is so anxious to have this bill in effect, that I think that the list would be proclaimed right away.

Mr. CALDWELL. I do not think it is of great importance, but it is a practical matter.

Mr. GREEN. It is a practical matter, and it will be worked out.

Mr. BLOOM. Has not the question as to what constitutes munitions of war been a debatable subject for a great many years?

Mr. GREEN. That is true, but in recent negotiations at Geneva we arrived at a more precise and satisfactory definition than ever before of what the experts consider munitions of war.

Mr. BLOOM. We have had these lists before the committee several times.

Mr. GREEN. At the present time the State Department is charged with the enforcement of the restrictions on exportation to China, Cuba, Honduras, Nicaragua, Bolivia, and Paraguay, and is using lists that are changed from time to time to meet conditions, and they are found to be generally satisfactory.

Mr. CALDWELL. Do you expect, in the administration of this act, to rely upon definitions?

Mr. GREEN. No, sir.

Mr. CALDWELL. You could not very well set up each name of each specific article.

Mr. GREEN. We would do just as we are doing at present.

Mr. CALDWELL. Let me call your attention to subsection (c) of section 3, which provides that "every person required to register under this section shall notify the Secretary of State of any change in the arms, ammunition, and implements of war which he exports, imports, or manufactures for exports."

What is contemplated by that term "change"?

Mr. GREEN. The way I visualize the thing is this: The President would proclaim a list of articles which would be considered as arms and implements of war for the purposes of this law. A manufacturer, importer, exporter, or dealer would be required to register which articles of that list he deals in. If, at any future time, he decided he was going to go in for the manufacture of some other article that he had not previously manufactured, or for the export of some article which he had not previously exported, he would then notify the Secretary of State of that fact.

Mr. CALDWELL. In other words, you do not contemplate that it would be required that a manufacturer of rifles of a particular type would have to register a change of type in that rifle?

Mr. GREEN. No, sir; he would have to register any change in the arms as listed. If a manufacturer were manufacturing rifles exclusively, he would register as a manufacturer of rifles. If, later on, he decided to go into the business of manufacturing ammunition, he would then register himself as a manufacturer of ammunition also.

Mr. CALDWELL. And you think that subsection is broad enough to cover each type.

Mr. GREEN. I think it is, in view of the provisions of section 7 (a).

Mr. BLOOM. Would you include motors and airplanes as munitions of war?

Mr. GREEN. Do you mean, would I if I had the drawing up of the list?

Mr. BLOOM. No; I mean in this bill; would you include airplanes and motors for planes?

Mr. GREEN. I assume that they would be included, but if you wish to know what I think the President would proclaim, that is a very difficult question to answer.

Mr. BLOOM. You can include the engine.

Mr. FISH. We would like to know of you, as the spokesman of the State Department, what the attitude of the Department would be, and whether you are in a position to state what it will be.

Mr. GREEN. Yes, sir; I am.

Mr. FISH. In regard to what is included in munitions of war?

Mr. GREEN. I am prepared to answer that question. Under section 2 the President is authorized to proclaim, from time to time, what shall be considered arms, munitions, and implements of war upon the recommendation of the Board, and the Secretary of State is one member of that Board. I feel certain that the Secretary of State, in making his recommendations, would not include automobiles and that he would, on the other hand, include airplanes.

Mr. FISH. Would he include copper?

Mr. GREEN. No raw materials of any description would be included.

Mr. BLOOM. No cotton?

Mr. GREEN. No cotton; no raw materials of any kind. The Department of State, in its experience in dealing with the restrictions on exports which we have had to enforce for many years, and which we have had many difficulties in attempting to enforce them, has come to the conclusion that in drawing up a list of arms, ammunition, and implements of war, the best list is the shortest list—a list which does not include any doubtful articles, but which does include only those articles which are definitely and obviously intended as implements of war.

I might give you an example of what I mean. There are a number of bills pending which contain lists of arms and implements of war, and most of those bills include in the lists component parts of the articles listed. For instance, they list rifles and airplanes and the component parts of both. We have found, in carrying out the restrictions on exportation now in effect, that the component parts of a typewriter or of an automobile, or of an electric refrigerator, and of a whole lot of other things, are totally indistinguishable from the component parts of certain implements of war. In any list of component parts, the Department of State would include a very small, specific list of obvious component parts which are not also used in what are primarily peaceful implements.

Mr. BLOOM. It would include only the most essential things?

Mr. GREEN. It would include only the most essential things; in the case of airplanes, the list would be very small, including only such items as engines, propellers, cylinders, and undercarriage units.

Mr. FISH. Do you mean airplanes of all types and description?

Mr. GREEN. The Department of State would include airplanes of all types and description. There would be different categories of arms, and we would have in mind the provision in the bill that no export license shall be issued until the Secretary of State is satisfied that the importing country is willing to admit the shipment. That is one of the provisions of section 5. The Secretary of State under that provision would be more easily satisfied and by a very much simpler procedure that a country was willing to admit a purely commercial airplane than he would be if it were a question of admitting a bombing plane. As I see the thing, the Secretary of State might be satisfied in the former case unless a government had indicated that it did not wish to admit the shipment. In the latter case, he might require a specific statement that a government was willing to admit such a shipment.

Mr. FISH. How would you include airplane engines?

Mr. GREEN. Under the category that would be subject to the very least restrictions possible, because you cannot tell when you look at an airplane engine whether it will be installed in a bomber or in a passenger plane. An airplane engine would be an item for which an export license would be issued freely upon application without any specific indication from the importing government that it was willing to admit it.

Mr. FISH. But they can build planes in all those countries, can they not?

Mr. GREEN. No, sir; they cannot build planes in all of the countries to which we export airplanes.

Mr. FISH. But in most of the great countries those people buy in quantities?

Mr. GREEN. Those countries that are great producing countries, are not big customers.

Mr. FISH. I am talking about engines.

Mr. GREEN. As to engines, those countries which purchase our engines are to a large extent countries that are not producing countries.

Mr. FISH. Have you any record of the number of engines that are sold?

Mr. GREEN. I have no such statistics here but I can obtain them.

Mr. FISH. I would like to see them.

Mr. GREEN. I can get them for you.

Mr. FISH. May I say this, Mr. Chairman. This is a very important bill, and I think we should have an expression of the attitude of both the Army and the Navy as to the way in which it affects them. I hope you can arrange a time which will be convenient to you and the other members of the committee when we can have expressions from both the Army and the Navy as to the effect of this bill on them.

Mr. CHAIRMAN. If it is satisfactory to the committee, we will continue this hearing until 10:30 tomorrow morning.

Mr. BLOOM. How would the provisions of this bill in any way be of interest to the Army and the Navy? This bill deals with exports to foreign countries.

Mr. FISH. I do not suppose any departments would be more interested in it than the Army and the Navy.

Mr. BLOOM. Before we adjourn, Mr. Chairman, may I read a letter here which may satisfy the gentleman from New York. This is

from Secretary of State Hull to Senator Pope, under date of June 18, 1935. It says:

"June 18, 1935.

DEPARTMENT OF STATE,
June 18, 1935.

Hon. JAMES P. POPE,
United States Senate.

MY DEAR SENATOR POPE: In compliance with your request that I furnish you with comments and suggestions in regard to S. 2998, a bill to control the trade in arms, ammunition, and implements of war, I have to inform you that representatives of the Treasury, War, Navy, and Commerce Departments met last week with representatives of this Department and gave careful consideration to this bill. As a result of their discussion, certain minor modifications of the text of the bill were agreed upon as desirable. I enclose a copy of the bill with these modifications indicated.

The Secretary of the Treasury has written to me under date of June 18, 1935, stating that "after consideration of the terms of S. 2998 and the suggested amendments, I am pleased to advise you that I do not believe the enactment of this measure into law would create any administrative difficulties for this Department."

The War Department and the Department of Commerce have expressed their approval of the bill with the slight modifications indicated. It has my entire approval.

The President has already expressed the hope that Congress may find it possible to take favorable action on this bill before the end of the present session.

I am sending copies of this letter to Senators Pittman and Nye for their information.

Sincerely yours,

CORDELL HULL.

Mr. FISH. I think this affects the national defense to a great extent.

The CHAIRMAN. The committee will adjourn at this time and we will continue this hearing at 10:30 o'clock tomorrow morning.

(Thereupon, the committee adjourned to meet tomorrow, Thursday, July 18, 1935, at 10:30 a. m.)

NATIONAL MUNITIONS ACT

THURSDAY, JULY 18, 1935

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, D. C.

The committee met at 10:30 a. m., Hon. Sam D. McReynolds (chairman) presiding.

The CHAIRMAN. The committee will come to order. We will continue the hearing on H. R. 8788, a bill to control the trade in arms, ammunition, and implements of war.

Mr. Green, have you any further statement to make in reference to this bill?

STATEMENT OF JOSEPH C. GREEN, DIVISION OF WESTERN EUROPEAN AFFAIRS, DEPARTMENT OF STATE—Continued

Mr. GREEN. Mr. Fish asked me to bring with me today a table showing the exports of airplane engines during the last year. The statistics which I have been able to gather are for 11 months only; I could not get them for the full 12 months, because they are not available for that period. They are now being typed at the Department, and I think they should be here in the next 10 minutes.

(The statement above referred to is as follows:)

Export of aircraft engines, July 1934–May 1935, inclusive (11 months)

	July 1934		August 1934		September 1934		October 1934		November 1934		December 1934		January 1935		February 1935		March 1935		April 1935		May 1935		Total	
	No.	Value	No.	Value	No.	Value	No.	Value	No.	Value	No.	Value	No.	Value	No.	Value	No.	Value	No.	Value	No.	Value	No.	Value
Czechoslovakia	2	835							6	46,000									2	16,540			10	63,375
Finland			1	2,900					1	650													2	3,550
France							2	11,200															2	11,200
Germany	2	19,463	20	145,879	6	40,020			8	43,160			2	12,000					1	16,905	1	10,049	40	287,476
Italy											3	27,000			2	7,881			2	21,000			7	55,881
Netherlands	2	13,000					1	5,000	8	45,422									10	63,589	6	36,546	27	163,551
Norway	1	535	1	1,225	4	19,305																	6	21,065
Poland and Danzig	5	24,700			10	49,150																	15	73,850
Rumania					2	881																	2	881
Soviet Russia			40	241,820	168	200,736	31	118,771	38	362,954	21	275,515					1	9,894			2	17,731	301	1,227,421
Spain									1	1,375					1	650							2	2,025
Sweden			2	14,650	2	15,000	4	29,000	3	21,300			1	6,700	1	7,200	4	30,870	2	12,510			19	137,230
Switzerland													2	8,185	3	24,910	1	5,400					6	38,495
United Kingdom																			2	12,022	1	2,132	3	14,154
Canada					3	7,665	3	3,775					2	525	6	6,600	22	30,498	8	7,388			44	56,451
Costa Rica	1	1,266			1	2,500					1	498					1	1,000					4	5,264
Guatemala							1	317			2	3,000	1	1,100									4	4,417
Honduras	1	520	1	500					4	1,796	3	2,300							1	1,100	1	400	14	6,616
Panama	3	10,277			2	2,150					2	2,000			1	900			1	675			9	16,002
Salvador	1	6,277																	1	500			2	6,777
Mexico	5	5,550	1	600	7	12,854	5	1,125	3	2,000	6	6,200			2	2,450	5	5,170	5	13,500	4	7,500	43	56,949
Cuba							2	2,500															2	2,500
British West Indies	2	1,307			2	4,000			1	1,000			4	4,000	1	1,600	2	6,000	2	6,000	1	3,000	15	26,907
Netherland West Indies	1	800									1	5,640											2	6,440
Argentina							5	32,766			22	164,945	1	3,787			2	12,530			6	30,000	36	244,028
Bolivia			1	8,000															1	2,200			2	10,200
Brazil	3	10,698	2	7,614	1	2,500	4	4,000	2	7,000	3	20,740	6	23,869	2	4,000	4	12,234	12	39,857	1	3,000	40	135,512
Chile			1	6,277																			1	6,277
Colombia	2	2,500			2	12,411			1	3,000	1	7,225			1	6,121	1	7,350					8	38,607
Peru	1	6,277	5	25,620	3	23,580															4	23,145	13	78,622
Uruguay			1	5,750																			1	5,750
Venezuela							1	3,000					1	1,095									2	4,095
China	2	15,770									2	20,545	10	41,235			5	7,425			20	38,880	39	123,855
Kwantung									1	300											[1] 2	[1] 9,820	3	10,120
Japan					2	16,447	1	7,524			1	5,690					1	930	1	2,000	2	13,590	8	46,181
Siam					3	21,620																	3	21,620
Turkey					3	4,520			5	41,050			2	8,700									10	54,300
Australia					8	11,975											2	2,200					10	14,175
New Zealand					1	310																	1	310
Union of South Africa							1	6,822															1	6,822
Egypt					1	1,500																	1	1,500
Netherland India													2	17,571	2	17,571							2	17,571
Total	34	119,775	77	462,025	231	449,154	61	225,800	82	577,007	68	541,298	32	111,196	22	79,283	54	131,501	51	215,786	51	195,793	761	3,088,233

[1] Hong Kong.

Mr. GREEN. I have here a memorandum, Mr. Chairman, which sums up some of the testimony I have been giving during the last 2 days, and with your permission I will leave that with you for the record, if you wish to have it.

Mr. CALDWELL. Is that a condensation of your testimony?

Mr. GREEN. Yes.

The CHAIRMAN. It just covers what you have been testifying to?

Mr. GREEN. Yes.

The CHAIRMAN. Suppose you read it.

Mr. GREEN. It reads as follows:

PURPOSES OF THE BILL

It provides for the setting up of administrative machinery to enable the Federal Government to supervise and control the manufacture and international traffic in arms and munitions.

For several years this Government has been foremost in its efforts to secure an international convention to accomplish this purpose. Our domestic legislation on the subject has, however, lagged far behind that of almost all other civilized nations.

The proposed legislation conforms to the Arms Traffic Convention of 1925, which was ratified by the President on June 21, 1935, and the Draft Convention for the Regulation of the Trade in and Private and State Manufacture of Arms and Implements of War now under negotiation in Geneva, insofar as Federal legislation of this kind is constitutionally possible, until the latter has been ratified.

The constitutional aspects of this legislation have been carefully studied, and it is believed that no question of validity under the Constitution will arise in respect to the proposed legislation.

The proposed legislation is similar to legislation now in effect in the important arms-producing countries of Europe.

PROVISIONS OF THE BILL

The proposed legislation provides for a national munitions control Board, to consist of the Secretaries of State, Treasury, War, Navy, and Commerce. The administrative functions of the board are vested in the Secretary of State as chairman.

The President is authorized to proclaim from time to time a list of articles which shall be considered as arms, munitions, and implements of war.

All persons engaged in the business of manufacturing, exporting, or importing such articles are required to register with the Secretary of State.

All persons importing or exporting such articles are required to obtain in advance a license from the Secretary of State covering each shipment.

No person acting on behalf of the United States Government may purchase any such articles from any person who has not registered with the Secretary of State.

The War and Navy Departments are prohibited from selling arms to foreign governments.

The Board is directed to make an annual report to Congress containing full information in regard to the licenses issued by it.

The sum of $25,000 is authorized to be appropriated for the expenses of the Board.

CHARACTER OF THE BILL

The bill contains nothing which would appear to be likely to be the subject of serious controversy. It involves no question of arms embargo or of neutrality policy. It merely sets up adequate administrative machinery for dealing with the restrictions on the exportation of arms now in effect under the joint resolutions of Congress of January 31, 1922, and May 28, 1934, the restrictions which this Government will be obligated to adopt when the Arms Traffic Convention of 1925 becomes effective, the restrictions which become obligatory if the more far-reaching convention on the same subject now under negotiation in Geneva is concluded, and such other restrictions on the exportation of arms as Congress may in the future enact. This legislation is a necessary preliminary step to enable the executive branch of the Government to carry out effectively such possible future enactments. It provides a foundation on which to build.

REASONS WHY SUCH A BILL SHOULD BE ENACTED AT THIS TIME

Without such legislation as is proposed, this Government would be without the means to meet its international obligations under the Arms Traffic Convention of 1925 should that convention become effective before the next session of Congress.

The enactment of such legislation would materially assist this Government in its efforts to negotiate the more far-reaching convention on this subject which is now under discussion in Geneva.

The enactment of such legislation would put an end to the secrecy which now shrouds the exportation of arms from the United States.

The administrative machinery provided for in the proposed bill is necessary to enable the Department of State effectively to administer the restrictions now in effect on the exportation of arms. The inadequacy of present legislation has been amply demonstrated during the past few months. The utmost efforts of the Department of State have not availed to prevent a series of shipments and attempted shipments of arms and munitions to Bolivia, notwithstanding the fact that they were made in pursuance of sales in violation of the law.

Should Congress enact further and more far-reaching restrictions on the exportation of arms from the United States, such legislation as is proposed would be imperatively necessary and such restrictions could not be effectively administered until approximately 90 days after the enactment of this or similar legislation.

As a result of the present international situation, exports of arms from the United States are rapidly increasing in quantity. The international traffic in arms is rapidly assuming greater and greater political importance. In the existing situation, this Government should not be longer left without any effective means of supervising the exportation of arms.

The CHAIRMAN. Are there any further questions any of the members of the committee desire to ask Mr. Green?

Mr. TINKHAM. I would like to ask two questions. Question no. 1: Why do you want any more money for this activity? Why cannot your present personnel take care of a situation like this, which involves nothing but the making of reports?

Mr. GREEN. There is a great deal more than the making of reports involved in the carrying out of the provisions of this bill. In the first place, this Board would be required to maintain a register of all manufacturers of arms in the United States and to modify that register from time to time as the manufacturers changed the products of their factories. In the second place, it would be required to issue licenses to cover all exports and imports of arms. That, in itself, is a very large proposition. We now, under the very few restrictions that are in existence, are issuing approximately 90 licenses per month. If this bill were enacted into law, I cannot estimate what the number would be, but it would be very much larger than that. The work of the Board would require a large clerical force and, naturally, it would require some responsible officers to supervise it. It would require considerable correspondence with the diplomatic missions of the importing countries, so that the Secretary of State might be assured that an importing country had no objection to a shipment in question. In addition to that, the Board would be required to make the report referred to in the question asked. For doing all that work, we have estimated that the Board would probably require 3 officers and 4 clerks. There would also be a very large amount of printing of registration blanks and other blank forms to be paid for.

Mr. KLOEB. The bill provides nothing in connection with the $500 license fee; where that is to be paid, and to whom it is to be paid. Is that to go into the Treasury?

Mr. GREEN. Yes, sir.

Mr. TINKHAM. How many employees have you in your Department?

Mr. GREEN. At the present time?

Mr. TINKHAM. At the present time; that is, outside of the consular officers.

Mr. GREEN. I have not the exact figure, but I think the number is approximately 750.

Mr. TINKHAM. I am under the impression that we ought not to give a special appropriation for this work, but that it ought to be done by the regular force. But that is a minor matter.

There is another matter I would like to ask you about. You provide for an annual report by the Board, "copies of which shall be distributed as are other reports transmitted to Congress. Such report shall contain such information and data collected by the Board as may be considered of value in the determination of questions connected with the control of trade in arms, ammunition, and implements of war. It shall include a list of all persons required to register under the provisions of section 3 and full information concerning the licenses issued under the provisions of section 4."

Does that mean that from time to time, or from week to week, or at any time, the registrations applied for will not be open to public inspection?

Mr. GREEN. No, sir.

Mr. TINKHAM. They will be open to public inspection?

Mr. GREEN. I should assume they would be. Of course, that would be a matter that the Board would regulate under its regulations. But I see no reasons why they should not be. I see no reason why the Board should not desire very frequent inspection of its operations.

Mr. TINKHAM. Nothing is said in the bill except as to an annual report.

Mr. GREEN. That would be the only requirement.

Mr. CHRISTIANSON. Might it not be well to insert in the bill a provision that the information should be available to the public?

Mr. GREEN. I do not think there would be any harm in it, but I do not think it is necessary, as that is the intention.

Mr. JOHNSON. Might not some peculiar situation arise where that might cause a little embarrassment? I can conceive of a situation whereby diplomatic relations might be affected by that. What do you think of that?

Mr. GREEN. I think the very best way to do it would be to leave it open, as it now is, knowing as I do that it would almost certainly be the intention of any board to do that.

Mr. JOHNSON. There is no reason for secrecy.

Mr. GREEN. No; in fact, the whole intention is quite the opposite.

Mr. CHRISTIANSON. If there is no reason for secrecy, why not put such a provision in the bill? The world has been forced into a lot of wars because of secret diplomacy. Let us not have any secret deals that we are keeping from the American people.

Furthermore, I was going to ask you this question? What provision have you made here for the expenses of the enforcement of the provisions of this act?

Let us assume that some corporation that did not have a license was surreptitiously manufacturing and exporting arms and war munitions to foreign countries.

Mr. GREEN. It would be necessary to prosecute them.

Mr. CHRISTIANSON. Would that prosecution be conducted by the Department of Justice under this appropriation?

Mr. GREEN. No, sir. Of course, some of the expense of the investigation might have to come out of the expenses of the Board, so far as the preliminary investigation is concerned, before the case was turned over to the Department of Justice.

As far as the actual administration, or the enforcement of the law from day to day is concerned, that would be in the hands of the officers of the Treasury Department. The Secretary of the Treasury has been consulted and has said that there is nothing in the bill which he would find any difficulty in administering.

Mr. CHRISTIANSON. It would not be necessary to draw upon the $25,000 for the enforcement of the law?

Mr. GREEN. Only for the preliminary investigation.

Mr. CHRISTIANSON. Could not the Treasury Department conduct such an investigation, as it conducts investigations relative to the violation of the revenue act and other laws?

Mr. GREEN. It seems to me that proper administration would require that the Board itself make the preliminary investigation and turn its data over to the Department of Justice.

Mr. CHRISTIANSON. In estimating the expense at $25,000, have you taken that possibility into consideration?

Mr. GREEN. Yes, sir.

The CHAIRMAN. It strikes me as being a minor matter.

Mr. TINKHAM. I just wanted an expression of opinion. I think these records ought to be public records, so that anyone could go into them.

The CHAIRMAN. We can discuss that in executive session.

Mr. GRAY. In the course of international relations, might it not become a question of policy or discretion as to whether or not this information should become public?

Mr. GREEN. That may be true, but I think that the policy of this Government is now and should be to have the fullest possible publicity for all of these shipments.

Mr. GRAY. I understand that, but it might possibly, in the course of international relations, become necessary in some particular instance to withhold these facts at a particular time.

Mr. GREEN. That is conceivable.

Mr. GRAY. Then if we go ahead and put a provision in this bill requiring full publicity, that would take from the administration the power to exercise its full discretion on that matter.

Mr. GREEN. Yes, sir.

Mr. JOHNSON. Mr. Green, there have been some questions asked with reference to the necessity for the authorization of $25,000.

Now, taking the other side of the question, what revenue, if any, would you estimate would be received by the Government from these

license fees of $500? Have you any basis of an estimate, or have you any idea as to any figure or amount of revenue that the Government might derive from the fee provided for in this legislation, that is, from the license fee of $500 that would be paid for each license?

Mr. GREEN. I do not know how many arms manufacturers there are in the United States, and the reason I do not know that is because we have no such legislation as this in effect. It is possible that General Embick, who is here representing the War Department, may be able to give you some more or less accurate estimate as to the number of arms manufacturers there are in this country.

Mr. JOHNSON. I do not mean by that question that we are going to offset one figure against the other, and that it is the financial consideration that will determine our action in connection with this bill.

Mr. GREEN. My impression is—and I give it with a great deal of reserve, as I have not the figures before me—but my impression is that the amount of the fees would more than cover the $25,000.

Mr. CALDWELL. I think it ought to be indicated why the present laws are not sufficient to enable you to ascertain all of the data you might need in connection with the exports and imports of arms.

Mr. GREEN. I can answer that question only partially in a public session.

We are now dealing with a number of cases of flagrant violations. Those cases are under investigation by the Department of Justice, and we hope they will very soon be placed before the courts. I feel it would be improper for me to discuss such cases in public, as it might be considered as prejudicing the cases which are in the hands of the Department of Justice at the present time.

I can state briefly that one of our difficulties is this. Suppose a shipment is made in violation of the law. The evidence that that shipment has been made is in some foreign country, usually. In fact, just recently the Department of Justice has had to send an agent to Peru to spend some time investigating a case of that kind. The Department of Justice is finding it very difficult to collect evidence of such a nature as to convict, when the evidence rests on the testimony of people in foreign countries. It is very difficult to gather the evidence in such form as can be used by the Department in the courts.

If a license system were in effect, the evidence would be right here. The Board would have the evidence as to when the shipment was made. The next question would be, was a license issued. The Board could testify that no license was issued, and you would immediately have full and complete evidence of the crime, the crime being the making of the shipment without a license.

Mr. CALDWELL. The last clause of section 5 reads:

> Provided, however, that no licenses shall be issued for the export of appliances and substances exclusively intended for chemical warfare.

I assume the Board will be charged with the duty of determining what the intention was at the time of the shipment.

Mr. GREEN. Well, the intention is not a matter that will be discretionary with the Board. It is really a matter of fact-finding by the Board. There are certain substances which are known by experts in that field to be exclusively for that purpose. The study which we have made of that clause has shown us that there is a very clear distinction between substances intended for chemical warfare and other toxic gases exported from the United States in large quantities for purely commercial purposes.

Mr. CALDWELL. It is the intention of the bill to prohibit the export of substances to be used for chemical warfare altogether, and under all circumstances?

Mr. GREEN. Yes, sir.

The CHAIRMAN. The bill says:

> No licenses shall be issued for the export of appliances and substances exclusively intended for chemical warfare.

The word "appliances" there refers to appliances for chemical warfare?

Mr. GREEN. Yes, sir; such appliances as containers and throwers of these substances.

The CHAIRMAN. That would prohibit the exportation of any of that character of articles when such an article was intended for chemical warfare?

Mr. GREEN. Yes, sir.

The CHAIRMAN. If two nations are at war, it would prohibit the exportation of such substances to either?

Mr. GREEN. Yes, sir.

The CHAIRMAN. At least you would have part of what you are contending for there, Mr. Tinkham.

Mr. JOHNSON. Is that in conformity with the policy we pursue, that chemical warfare should not be indulged in, or should be prohibited?

Mr. GREEN. Yes, sir; we are signatory to a pact prohibiting chemical warfare, which we have never ratified. This is along the line of that general policy.

Mr. JOHNSON. A large number of powers have agreed to that, have they not?

Mr. GREEN. No, sir.

Mr. JOHNSON. It is simply in its initial stages?

Mr. GREEN. Yes, sir; and it has been in its initial stages for a long time.

The CHAIRMAN. We will now hear General Embick, representing the War Department.

General, will you state your name, your rank, and the position you occupy?

STATEMENT OF BRIG. GEN. STANLEY D. EMBICK, ASSISTANT CHIEF OF STAFF, IN CHARGE OF WAR PLANS DIVISION, WAR DEPARTMENT GENERAL STAFF

General EMBICK. Brigadier General Stanley D. Embick, Assistant Chief of Staff, War Department General Staff.

Mr. TINKHAM. What is your particular detail?

General EMBICK. I am an Assistant Chief of Staff.

The CHAIRMAN. Have you gone over this bill?

General EMBICK. I have.

The CHAIRMAN. The committee will be glad to have from you such comments as you desire to make in reference to the bill we have under consideration.

General EMBICK. I am authorized to state that the War Department is in agreement with this bill. Insofar as it concerns the War Department particularly, the effect of the bill would enable the War Department to keep informed as to the kinds and quantities of ammunition purchased by various foreign countries, and it would also enable the War Department to take steps to preserve military secrets, that is, military devices which have been developed in our own service, and which are presumably not known abroad.

Mr. JOHNSON. The bill would be helpful therefore not only in keeping us out of war with other countries, but it might also be valuable to our own country if we should be at war?

General EMBICK. Yes, sir.

Mr. CHRISTIANSON. Is there not a treaty pending, or a treaty that has become effective, that calls for quartely reports on arms to some international office?

General EMBICK. Mr. Green is better able to answer that question than I am.

Mr. GREEN. That treaty is in its preliminary stages. It is not effective. It has merely passed its first reading in the committees of the disarmanent conference at Geneva. I have a copy of it here, if you desire to see it.

The CHAIRMAN. That has not gotten anywhere yet, Governor. That is the treaty you referred to a while ago.

Mr. TINKHAM. As far as foreign pacts are concerned, they do not make much of an impression on a good many people who are realists, because they know they are broken and will be broken. As far as our own legislation is concerned, they know we have no means of enforcing that.

Mr. JOHNSON. I think I heard former President Hoover once speak of that proposition, and it seems to me he advocated some such provision in connection with chemical warfare.

Mr. CHRISTIANSON. My thought was, if this information was to be made available quarterly to some international body, it should be made available to the American people more than once a year.

Mr. LAMBETH. General, to what extent does our Government import munitions? I mean, do we rely to any considerable extent upon foreign sources of supply for any of our munitions?

General EMBICK. I think not, sir.

The CHAIRMAN. Have you any idea as to the number of exporters and importers of arms and ammunition there are in this country?

General EMBICK. I have not.

The CHAIRMAN. We are very much obliged to you, General.

Mr. GRAY. General, what is your judgment as to the wisdom of inserting a provision in this bill requiring that the proceedings, the records, and the facts developed by this Board should be at all times made public, or open to the public? What is your judgment as to the wisdom of such a requirement?

General EMBICK. I think that is a question of policy that I cannot pass upon with propriety.

Mr. TINKHAM. So far as you know, there would be no objection by the War Department to having those records or facts made public at any time?

General EMBICK. So far as I know, the War Department would not object to the publication you refer to.

The CHAIRMAN. We thank you for your statement, General.

Mr. Fish has just come in, and he may want to ask you a few questions.

Mr. FISH. Mr. Chairman, I apologize for being late, but I was unavoidably detained.

General, I assume you have expressed your views as to the attitude of the War Department on this bill?

General EMBICK. I have stated the War Department is in agreement with the bill.

Mr. FISH. As long as you are here I would like to ask you, General, if it is the practice of the War Department to have any of its officers or subordinates interfere with legislation in the capacity of lobbying for or against legislation?

The CHAIRMAN. How does that question arise in this case?

Mr. FISH. It arises because it is the first time I have had an opportunity to bring it up.

Mr. JOHNSON. Is it germane?

Mr. FISH. It is very germane.

The CHAIRMAN. There has been no lobbying in this committee by the War Department.

Mr. FISH. It is the first time I have had an opportunity to ask that question, because I am going to show in the records of a hearing held by a committee of the Senate a short time ago where they admit doing this very thing against a bill of mine that passed out of this committee.

I want to get the viewpoint of the General as to what proceeding should be taken against any subordinates who have done this very thing and admitted that they have done it.

Mr. JOHNSON. I object to the question, unless it has something to do with this bill, or with something that has been brought out at this hearing.

Mr. FISH. It has to do with an amendment I propose to offer to this bill. It is in reference to a bill already reported out by this committee on the same subject.

Mr. JOHNSON. You say it has to do with this bill?

Mr. FISH. Yes; it is in reference to an amendment I propose to offer.

Mr. JOHNSON. What is your amendment?

Mr. FISH. My amendment is a provision asking the President to use his best efforts to bring about a multilateral treaty preventing the sale and shipment of arms and munitions of war.

Much to my surprise—I knew there was some trouble after it got out of the House, and much to my surprise I find in the printed minutes of the proceedings of the hearings before the Senate committee where it was testified a short time ago that this representative of the du Pont Company, Maj. Aiken Simons, went to the War Department, and he told just who he saw at the War Department, and how one of the officials said that they would see that this

bill was defeated in the House. This is in black and white in the printed hearings of the Senate committee, and I thought this was the proper time to bring it up.

Mr. JOHNSON. Is that in connection with any legislation of this nature?

Mr. FISH. I would not have brought it up unless I knew I was within my rights.

I think this is one of the most curious things that has happened.

I want to state very definitely that I am a friend of the War Department and a friend of the Army, but this kind of thing has got to stop.

I want to know what action will be taken against those who admit doing this very thing.

Mr. JOHNSON. Has the gentleman taken it up with the Secretary of War?

The CHAIRMAN. When did this occur, and before what body?

Mr. FISH. It occurred in the Senate committee, in hearings held recently, where they found this report of this representative of the du Ponts, Major Simons.

The CHAIRMAN. That was two or three years ago?

Mr. FISH. No, that was within the last year.

The CHAIRMAN. How far does this information go back?

Mr. FISH. It refers to a bill I introduced, which was reported out of this committee. It was blocked in the House, and I never did know how it got so completely blocked until I found out that the du Pont Co. was working against it, and in the Senate committee they found this letter or report which they put into the Senate committee hearings. It shows how a representative of the du Ponts called upon Army officials, and how they used their influence to block it, how a certain gentleman said they would see that it was blocked.

Mr. JOHNSON. It seems to me that if it is a matter of such importance it will be proper to call it to the attention of the Secretary of War.

Mr. FISH. I think this is a proper procedure for me to take, and I would like to get an expression from the General. I feel quite sure that he would disclaim any such practice by the War Department or any of his subordinates, if they found that any of the subordinates did such a thing, and if they found that to be true, they ought to be reprimanded or punished.

General EMBICK. I know nothing of the particular instance that you refer to.

The instructions of the War Department contemplate that officers will appear before congressional committees and testify only upon matters of War Department policy upon which they are authorized to speak.

The CHAIRMAN. And as good soldiers you obey those orders.

Mr. JOHNSON. I think the General manifested his disposition in reference to the case when he said it was a matter of policy about which he expressed no opinion.

Mr. FISH. Let me read this to you so you will have it as a matter of record.

This is taken from a report or memorandum found in the files of the du Pont Co., and put into the record of the proceedings of the Senate Munitions Committee. I will read the last line of the memorandum: "Captain Cage will take proper action to have the bill opposed on the floor of the House."

Those are the words in the report as found in the proceedings of the hearing of the Senate Committee on Munitions.

I am going to ask the General who Captain Cage is. That which I quoted is just a part of the report.

General EMBICK. I do not know him, Mr. Fish.

Mr. FISH. Do you know what branch of the service he is in?

General EMBICK. No, sir. I have reported for duty at Washington rather recently.

The CHAIRMAN. You have just come from the Philippine Islands?

General EMBICK. I have.

Mr. FISH. I would like to ask that Captain Cage be called. I am not going after the higher-ups. This is a very definite statement. I think I can raise a point of order, because this is almost a question of personal privilege.

This was a bill reported out of this committee, and here is definite testimony of this officer who stated that he would take proper action to have the bill opposed on the floor of the House.

The CHAIRMAN. I think that had been be considered when we discuss such amendments as are offered.

Mr. GRAY. I think the inquiry ought to be confined to the merits or demerits of this bill. The matter he is going into is a proper matter, but it is a matter of investigation, and we are not conducting an investigation.

Mr. JOHNSON. I think you should direct your inquiry to the Secretary of War, or introduce a resolution, which would be proper, and the matter can be investigated.

Mr. FISH. If and when I offer such an amendment to this bill, this particular man should be called here. I would like to know who Captain Cage is. I think we should have some information about this matter.

The CHAIRMAN. That question can be raised in executive session; and if we want to have further hearings, that will be determined by the committee.

Mr. FISH. I am willing to take it up later; but I am raising the question now, because it is a matter affecting the integrity of this committee.

Mr. JOHNSON. Are you not referring to a naval officer and not to an officer in the Army at all?

Mr. FISH. I want to find out who he is.

Mr. JOHNSON. It says in this hearing that he is a naval officer. I assume we have a naval officer here to testify on the bill we have before us.

The CHAIRMAN. We have Captain Farber here representing the Navy.

Captain Farber, will you state your full name, your rank, the position you occupy?

STATEMENT OF CAPT. W. S. FARBER, FLEET NAVAL DIVISION, OFFICE OF CHIEF OF NAVAL OPERATIONS, NAVY DEPARTMENT

Captain FARBER. My name is Capt. W. S. Farber; I am in the office of the Chief of Naval Operations of the Navy Department.

The CHAIRMAN. Have you read this bill we have before us? Have you any comments to make upon it? If so, we will be very glad to hear them.

Captain FARBER. Yes, sir; I have only two suggestions to offer. In section 6 (b) we recommend that in line 23, after the first word "War", that you insert the words "or the Secretary of the Navy"; and also in line 23, after the second word "War", that you also insert the words "or the Secretary of the Navy, as the case may be."

Mr. JOHNSON. You suggest using the word "or" in both instances?

Captain FARBER. Yes, sir; that you use "or" both times, having it read the first time "or the Secretary of the Navy"; and the second time, "or the Secretary of the Navy, as the case may be." That is all in the same line.

Outside of those comments and suggestions, the Department has no objection to the bill.

Mr. JOHNSON. Would not the language in the bill authorize the Board to furnish such information to the Secretary of War, and would not the Secretary of War have the authority to either destroy the arms that were thus confiscated or to turn them over for the use of the armed forces in any branch of the Government? I think that is what is contemplated.

Captain FARBER. We were not sure that that was very clear.

Mr. JOHNSON. I think that is what is suggested. I understand from Mr. Green that the intention was that there would be some particular department where they would be delivered, or which should retain them or deliver them to someone else for the use of the armed forces.

I do not think there would be any objection to the amendment. And I will say this, that I understand the idea of the Senate was to expedite the passage of this legislation, and if you have an amendment in there which will make it different from the Senate bill, it might delay the final passage of the legislation. I do not see any objection to it.

Mr. FISH. I want to raise this question, so it will be very clear. I will read the last paragraph of this report from Maj. Aiken Simons, the representative of the du Pont Co., in regard to action that was to be taken in connection with the bill I refer to, which I introduced.

This is the last paragraph of that report [reading]:

> Called on Admiral Larimer, Chief of the Bureau of Ordnance, United States Navy, and discussed the same matter with him. Admiral Larimer called up Capt. H. K. Cage, Chief of the Material Division, office of the Chief of Naval Operations, and called his attention to the resolution and its status, of which neither of these officers had been aware until their attention was called thereto. Captain Cage will take proper action to have the bill opposed on the floor of the House.

That is in reference to the matter of my resolution that had been reported from the committee, House Joint Resolution 282.

Can you tell me who Captain Cage is—whether he is still in the Navy?

Captain FARBER. I do not know, sir; he has not been here since I have been here, I do not think.

Mr. FISH. That is Capt. H. K. Cage, Chief of the Material Division, office of the Chief of Naval Operations.

The CHAIRMAN. How long have you been here, Captain Farber?

Captain FARBER. In my present position, about 2 years.

The CHAIRMAN. You will have to go the Secretary of the Navy about that matter, Mr. Fish.

Is there anything further that any member desires to ask Captain Farber?

Mr. FISH. This affects the integrity of this committee, in reference to an amendment that I am going to offer to the pending bill.

Of course, if the Captain does not know Captain Cage, I will not ask him any further questions.

Captain FARBER. He has not been here since I have been here, according to my recollection.

Mr. FISH. Just one general question. It is not the habit of the Navy Department to oppose bills on the floor of the House, is it?

Captain FARBER. No, sir.

Mr. FISH. That is what it says here, "take proper action to have the bill opposed on the floor of the House."

Captain FARBER. I will answer that question, not to my knowledge.

Mr. FISH. You have never heard of anything of that kind?

Captain FARBER. No, sir.

Mr. FISH. And it should not be; is that correct?

Captain FARBER. It should not be.

The CHAIRMAN. We are very much obliged to you for your statement, Captain. I think that concludes the hearings on this bill.

Mr. KEE. I would like to ask Mr. Green a question. In section 10 it is provided that—

> All persons required to register under section 3 of this act shall maintain such permanent records of manufacture for export, importation, and exportation of arms, ammunition, and implements of war as the Board shall prescribe.

Do you think there is any necessity for that, if those records are at all times open for the inspection of the Board?

It simply provides that the manufacturer shall keep these records, with provision that the Board shall have the right to inspect them at all.

Mr. GREEN. I doubt whether it is necessary to insert that. Of course it is the intention of that section to have such records in existence in order to enable the Board to obtain evidence in case there is any violation of the provisions of this act.

Mr. KEE. But without the provision in there to the effect that the Board at all times shall have the right to inspect the records they might have to resort to legal proceedings?

Mr. GREEN. They might have to resort to a subpena, although I assume they would not have to do that, for this practical reason. The best and most important customer of the arms manufacturers in the United States is the United States Government. The United States Government buys its own war materials in this country, and

he result is that in such a matter as asking for records from an arms-manufacturing company, I should be astounded if any Government official, properly authorized, were obliged to resort to legal proceedings to have access to them. It is their tendency to wish to maintain such terms with the Government as a seller like to maintain with his best customer.

Mr. KEE. Of course, that is the purpose of the provision, to have these records for the inspection of the Board, or they could not get the information they desired. It seemed to me it might be well to put a provision in there throwing them open to inspection at all times.

The CHAIRMAN. If there are no further questions, that concludes the hearing on the bill, and the committee will go into executive session at this time.

(Thereupon, the committee proceeded to the consideration of executive business, after which it adjourned.)

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